

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Telephone Number Portability) CC Docket No. 95-116
) RM 8535

COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION DOCKET FILE COPY ORIGINAL

The United States Telephone Association (USTA) hereby submits these comments on the Petitions for Reconsideration and/or Clarification of the Commission's *Third Report and Order* in the above-captioned proceeding,¹ pursuant to Sections 1.429 and 1.4(b) of the Commission's rules, 47 CFR §§1.429, 1.4(b).² USTA filed a Petition for Clarification and/or Reconsideration of the *Third Report and Order* in which it sought changes to the Commission's cost recovery rules for number portability so that Incumbent Local Exchange Carriers (ILECs) can adequately recover their costs. USTA continues to urge the Commission to grant the relief it requested. Also, USTA supports the requests of several petitioners to correct the level of charges assigned to PBX trunk and Centrex lines so that the PBX subscriber is charged as a single unit and the Centrex user is charged 1/9th that

¹In the Matter of Telephone Number Portability, CC Docket No. 95-116, RM 8535, *Third Report and Order*, FCC 98-82 (rel. May 12, 1998) (*Third Report and Order*).

²These petitions were placed on public notice in the Federal Register on August 19, 1998, 63 Fed. Reg. 44460.

amount. In addition, USTA requests that the petitions seeking inclusion of general overhead factors in query charges be granted.

I. THE RELIEF REQUESTED BY USTA TO ALLOW FULL RECOVERY OF COSTS INCURRED BY INCUMBENT LOCAL EXCHANGE CARRIERS IS SUPPORTED BY OTHER PETITIONERS AND SHOULD BE GRANTED.

In its petition, USTA sought clarification that ILECs in the top 100 MSAs be given a full five years to recover their number portability implementation costs and be able to adjust their monthly number portability charge to fully recover costs during the five year period. USTA also advocated that ILECs who are not required to port numbers immediately be permitted to recover costs they incur for routing and terminating ported calls and that a mechanism be provided for ILECs outside the top 100 MSAs to recover from the end-user their payment to the regional local number portability administrator. Finally, USTA requested that the Commission address the specific procedure for ILECs to open NXX codes for portability and provide that a cost recovery mechanism be available for the query expense that the ILEC incurs every time a number from a ported NXX code is called.

The relief requested by USTA was supported by several parties.³ Such action by the Commission is necessary to assure that all ILECs, regardless of the location of their service

³Petition for Reconsideration and Clarification of the National Telephone Cooperative Association (NTCA); Expedited Petition for Reconsideration of the National Exchange Carrier Association, Inc. (NECA); Joint Petition of Oklahoma Rural Telephone Coalition and Texas Statewide Telephone Cooperative, Inc. (Oklahoma/Texas); and Supporting Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO).

area, have an adequate means of recovering the costs of providing number portability. The relief requested is consistent with and fully justified by Section 251(e)(2) of the Communications Act of 1934, as amended,⁴ and the Commission's interpretation of the requirement that "[t]he cost of establishing...number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."⁵ To deny the relief requested by USTA would be to preclude ILECs from recovering legitimate costs they incur in providing and administering number portability in conformance with the requirements of the Act.

Alternatives have been proposed by several petitioners that would limit the ability of ILECs to recover certain costs incurred in implementing and administering number portability.⁶ The Commission has, with the exceptions set forth in USTA's petition and these comments, provided a mechanism for number portability cost recovery that is consistent with the statutory requirements of Section 251(e)(2) as set forth above and that should be implemented. The parties seeking to reduce cost recovery have offered no credible basis for their proposals. Those requests should be denied.

⁴47 U.S.C. § 251(e)(2).

⁵*Id.* See *Third Report and Order*, ¶¶ 30-60.

⁶Petition for Clarification of Comcast Cellular Communications, Inc. (Comcast); and Petition for Clarification and Partial Reconsideration of MCI Telecommunications Corporation (MCI).

II. THE LEVEL OF CHARGES ASSIGNED TO THE CENTREX LINE TO PBX TRUNK EQUIVALENCY RATIO UTILIZED IN THE *THIRD REPORT AND ORDER* SHOULD BE CORRECTED.

In the *Third Report and Order*, ¶ 145, the Commission applied the Centrex-PBX equivalency factor it had previously adopted for presubscribed interexchange carrier charges (PICCs)⁷ for number portability charges that are to be assessed by the ILECs. Several parties appropriately pointed out that, while it was correct to apply this 9:1 factor to number portability, the Commission was in error in the level of charges it assigned to the PBX trunk and Centrex line.⁸ Specifically, the Commission treated the Centrex subscriber as the unit of reference which results in the PBX customer having an inflated charge of nine times the appropriate amount. Rather, a PBX subscriber should be charged as a single unit and an end-user surcharge to a Centrex subscriber should be 1/9th that amount.

The Commission should correct the value assigned to the PBX/Centrex ratio for number portability. This action must be taken for several reasons. First, it is consistent with the equivalency adopted by the Commission for PICCs. Second, it is competitively neutral, since it would not place the ILECs at a competitive disadvantage with competitive local exchange carriers (CLECs), who are not required to assess high number portability

⁷*Second Order on Reconsideration and Memorandum Opinion and Order in the Access Charge Reform proceeding*, 12 FCC Rcd 16606, 16641 (1997).

⁸Petition for Expedited Reconsideration and Clarification of Ameritech (Ameritech) at 8-11; Petition for Reconsideration of Bell Atlantic (Bell Atlantic) at 1-2; Petition for Reconsideration of BellSouth Corporation (BellSouth) at 1-6; Petition for Clarification and Reconsideration of SBC Communications (SBC) at 2-4; and Petition for Reconsideration of U S WEST, Inc. (U S WEST) at 3-7.

charges to these services. Third, it would not require PBX customers to make a disproportionate contribution to the costs of number portability, since there is no public policy or cost justification to do so. Finally, it would not require the ILECs to make major changes in their billing systems because of the differences between the PICC and number portability ratios.

III. GENERAL OVERHEAD FACTORS SHOULD BE ALLOWED TO BE RECOVERED IN QUERY CHARGES.

The Commission excluded the use of general overhead costs in calculating the costs of number portability in the *Third Report and Order*, ¶ 74. A number of parties seek reconsideration of that determination.⁹ These parties correctly point out that the Commission's common practice is to include overhead factors in cost recovery and that such practice is consistent with the Commission's stated determination to allow carriers to recover all relevant costs attributable to number portability. For these reasons, the Commission should reverse its determination and allow carriers to recover general overhead costs.

IV. CONCLUSION

For the foregoing reasons, USTA respectfully requests that the Commission grant its Petition for Reconsideration and/or Clarification, deny those portions of other petitions to

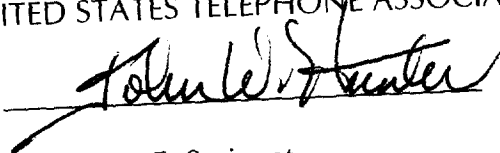
⁹Ameritech at 4-7; SBC at 4-7; U S WEST at 7-9; and Petition for Reconsideration and Clarification of the Sprint Local Telephone Companies (Sprint) at 1-4.

the extent that they seek to further limit the ability of ILECs to recover their number portability costs, correct the level of charges assigned to the PBX trunk and Centrex line ratio, and allow the recovery of general overhead factors in query charges.

Respectfully submitted,

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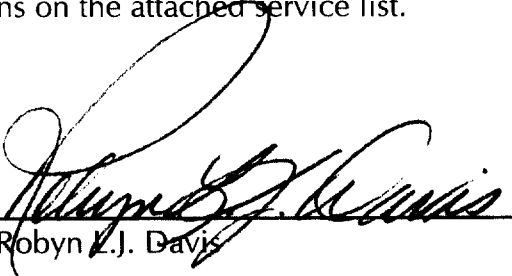
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September 3, 1998

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on September 3, 1998 copies of the Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.


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